

FILED

FEB 16 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

JOSE ANTONIO MEDINA
HERNANDEZ; et al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-76178

Agency Nos. A95-446-823
A95-446-824

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted February 13, 2006^{**}

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Jose Antonio Medina Hernandez and Maria Marquina Romero, natives and
citizens of Mexico, petition pro se for review of the Board of Immigration

^{*} This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by Ninth Circuit Rule
36-3.

^{**} The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

Appeals' order dismissing their appeal from an immigration judge's ("IJ") order denying their applications for cancellation of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for substantial evidence, *see Lopez-Alvarado v. Ashcroft*, 381 F.3d 847, 850-51 (9th Cir. 2004), and we deny the petition for review.

Substantial evidence supports the IJ's conclusion that petitioners were statutorily ineligible for cancellation of removal because petitioners conceded they had failed to accrue ten years of continuous physical presence in the United States. *See* 8 U.S.C. § 1229b(b)(1)(A).

Petitioners' assertion that the IJ failed to consider all the evidence presented is without merit, because petitioners' counsel admitted that petitioners had failed to accrue the requisite physical presence and the IJ solicited testimony from petitioners about their date of entry to confirm their counsel's statement.

The voluntary departure period was stayed, and that stay will expire upon issuance of the mandate. *See Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004).

PETITION FOR REVIEW DENIED.